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September 2, 2015

Via ECF

Honorable Judge Joan M. Azrack  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722

Re: *Berlin v. Maxi-Aids, Inc.*  
14-cv-3028 (SJF-SIL)  
Our File No.: 169L-95833

Dear Judge Azrack:

We represent Defendants, Richard Hause, Alisa J. Epstein and Samuelson, Hause & Samuelson, L.L.P. (collectively referred to as "SHS") in the above-referenced action. We write to join in the request filed by co-defendants, Solomon & Herrera, PLLC, Michael D. Solomon, Susan Rubin and Daniel Herrera, dated August 5, 2015 and that of co-defendants, Maxi-Aids Inc., Elliot Zaretsky, Shirley Zaretsky, M&H Inc., ILGAR Inc. a/k/a ABLE-VISION, Larry DiBlasi, Latonya Thompson, Pamela Stein and Theresa Butler dated August 26, 2015, who seek permission to file their respective motions to dismiss with the court and who oppose plaintiffs' further request for an extension of time to oppose the defendants' motions to dismiss.


On December 10, 2014, SHS served its motion to dismiss the amended complaint in this action and filed a letter reflecting same in accordance with the rules of the Honorable Sandra J. Feuerstein, who was the judge assigned to this matter at that time. As of today, SHS's motion to dismiss has not been filed via ECF in accordance with Judge Feuerstein's bundle rule.

The Court imposed a deadline of April 6, 2015 to serve opposition to the motion or to move to further amend the complaint. This deadline has long passed. To date, no decision has been rendered on plaintiffs' request for a further extension of the deadline. SHS has previously opposed plaintiffs' requested extension and hereby reiterates its opposition to plaintiffs' request for an extension. Notably, the instant action as against SHS is an attempt to re-litigate an action that was previously dismissed, with prejudice, pursuant to FRCP 41(b) and 16(f). Moreover, the dismissal of the action was affirmed by the Second Circuit Court of Appeals.

By correspondence to the Court dated May 15, 2015, SHS respectfully requested that SHS be permitted to file its motion to dismiss as unopposed. At this time we respectfully reiterate that request.

Respectfully submitted,

L'ABBATE, BALKAN, COLAVITA  
& CONTINI, L.L.P.



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And the remaining parties by ECF